INTERNATIONAL SEABED AUTHORITY **ISBA**

Assembly

Distr.
GENERAL

ISBA/3/A/4
31 July 1997

ORIGINAL: ENGLISH

Report of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea

I. INTRODUCTION

1. This is the first annual report of the Secretary-General to the Assembly of the Authority under article 166, paragraph 4, of the 1982 Convention on the Law of the Sea ("the Convention"). For the sake of completeness, the report not only covers the period from the time the Secretary-General assumed his duties, but also reviews the progress of work since the Authority was established as an autonomous organization under the Convention.

2. The Authority is an autonomous international organization established under the Convention and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea ("the Agreement"). The Authority is the organization through which States parties to the Convention shall, in accordance with the regime for the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction ("the Area") established in Part XI and the Agreement, organize and control activities in the Area, in particular with a view to administering the resources of the Area.

3. The Authority came into existence on 16 November 1994, upon the entry into force of the Convention. The Agreement was adopted by the General Assembly of the United Nations on 28 July 1994, and entered into force on 28 July 1996. The Agreement modifies de facto a number of provisions of the Convention relating to deep seabed mining and is to be interpreted and applied together with Part XI of the Convention as a single instrument.

4. The first Secretary-General of the Authority, Satya N. Nandan (Fiji), was elected in March 1996 and the Authority became fully operational as an autonomous international organization in June 1996, when it took over the premises and facilities at Kingston previously used by the United Nations Kingston Office for the Law of the Sea.

II. MEMBERSHIP OF THE AUTHORITY

5. In accordance with article 156, paragraph 2, of the Convention all States Parties to the Convention are ipso facto members of the Authority. The Convention entered into force on 16 November 1994. As at 10 July 1997, there were 116 States parties to the Convention, which were ipso facto members of the Authority, while a further 17 States and one entity were provisional members of the Authority following decisions of the Council made pursuant to the provisions of the Agreement, making the total membership of the Authority 134. On 21 July 1997, Equatorial Guinea deposited its instrument of ratification of the Convention, which will become effective on the State on 20 August 1997, thus increasing the total membership of the Authority to 135. On 25 July 1997, the United Kingdom of Great Britain and Northern Ireland deposited the instrument of accession to the Convention and the instrument of ratification of the Agreement, which will become effective on the State on 24 August 1997, thus reducing the number of the provisional members of the Authority to 17.

6. The Agreement was adopted on 28 July 1994 by the General Assembly by its resolution 48/263. In accordance with its terms after the adoption of the Agreement, any instrument of ratification or formal confirmation of or accession to the Convention shall also represent consent to be bound by the Agreement. No State or entity may establish its consent to be bound by the Agreement unless it has previously established or establishes at the same time its consent to be bound by the Convention.

7. A fundamental feature of the Agreement is its provisional application, which was aimed at promoting a single regime and universal participation in the International Seabed Authority by allowing for provisional membership for a limited time in order to allow States an opportunity to complete the formalities for ratification of or accession to the Convention. After 16 November 1994, States and entities that were not States parties to the Convention, but had consented to the adoption of the Agreement in the General Assembly or had notified the depositary of their consent to its provisional application, were enabled to apply the Agreement provisionally pending its entry into force.

8. In accordance with article 6, paragraph 1, the Agreement entered into force on 28 July 1996. On the same date, in accordance with article 7, paragraph 3, the provisional application of the Agreement terminated. In accordance with the provisions of section 1, paragraph 12 (a) of the annex to the Agreement, States and entities referred to in article 3 of the Agreement that had been applying it provisionally and for which it was not in force were able to continue to be members of the Authority on a provisional basis, pending its entry into force for such States and entities, by sending a written notification to the depositary to that effect.

9. Article 7, paragraph 3, of the Agreement provides that membership on a provisional basis, if continued after the entry into force of the Agreement, shall terminate either on 16 November 1996 or upon the entry into force of the Agreement and the Convention for the State or entity concerned, whichever is earlier. Nevertheless, in accordance with section 1, paragraph 12 (a), of the annex to the Agreement, the Council of the Authority may, upon the request of the State or entity concerned, extend such membership beyond 16 November 1996

for a further period or periods not exceeding a total of two years, provided that the Council is satisfied that the State or entity concerned has been making efforts in good faith to become a party to the Agreement and the Convention.

10. At the resumed second session of the Authority, held from 5 to 16 August 1996, the Council decided to extend the provisional membership of Bangladesh, Nepal, Poland and the United States of America for a period of two years as from 16 November 1996. It also decided to extend the provisional membership of Canada for a period of one year as from 16 November 1996, as requested. Noting that a number of States and entities had notified the depositary of their intention to continue to participate as members of the Authority on a provisional basis following the entry into force of the Agreement, but had not requested the Council to extend their provisional membership beyond 16 November 1996, the Council decided that those States and entities which submit requests for an extension of such membership prior to the next session of the Council shall be deemed to be members of the Authority on a provisional basis until the end of that next session in March 1997. In accordance with these procedures, at the first part of the third session of the Authority, held from 17 to 27 March 1997, the Council decided to extend the provisional membership of Belarus, Belgium, Chile, Gabon, the Lao Peoples' Democratic Republic, Mozambique, Qatar, Solomon Islands, South Africa, Switzerland, the United Arab Emirates and the European Union (EU) for a period of two years from 16 November 1996. It also decided to extend the provisional membership of the Russian Federation, Ukraine and the United Kingdom of Great Britain and Northern Ireland for a period of one year as from 16 November 1996, as requested. Mozambique and the Russian Federation have since ratified the Convention and are therefore considered members of the Authority ipso facto.

11. One important matter that needs to be drawn to the attention of the Assembly concerns the position of those States which are States parties to the Convention but which have not yet become Party to the Agreement. It should be noted that, of the 134 States that were members of the Authority as at 23 July 1997, 38 States that became States parties to the Convention prior to the adoption of the Agreement have not yet taken the necessary steps to become parties to the Agreement. These are Angola, Antigua and Barbuda, Bahrain, Bosnia and Herzegovina, Botswana, Brazil, Cameroon, Cape Verde, the Comoros, Costa Rica, Cuba, the Democratic Republic of the Congo, Djibouti, Dominica, Egypt, the Gambia, Ghana, Guinea-Bissau, Guyana, Honduras, Indonesia, Iraq, Kuwait, Mali, Marshall Islands, Mexico, the Philippines, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Somalia, the Sudan, Tunisia, the United Republic of Tanzania, Uruguay, Viet Nam and Yemen.

III. INITIAL TASKS OF THE AUTHORITY

12. Following the inaugural meeting of the Assembly in November 1994, the most important task facing the Authority was to establish, as quickly as possible, its principal organs in order to enable it to elect a Secretary-General and to embark upon its substantive work programme. The most important and urgent matter, however, following the adoption of the rules of procedure of the Assembly (ISBA/A/6), was to elect a Council, the composition of which would be

in accordance with the formula set out in section 3 of the annex to the Agreement. Once the Council had been elected, it would be responsible for recommending to the Assembly the list of candidates for election as Secretary-General and for the election of the members of the Legal and Technical Commission.

13. In addition, a number of matters were identified as requiring attention at an early stage. These comprised matters of an essentially administrative nature as well as substantive matters, and included the following:

(a) Consideration of the final report of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea;

(b) Follow-up of the Commission's decisions concerning the registered pioneer investors, including the training to be provided by them;

(c) Consideration of the Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the Authority;

(d) Consideration of the Protocol on Privileges and Immunities of the International Seabed Authority;

(e) Consideration of the Agreement concerning the relationship between the United Nations and the International Seabed Authority;

(f) Transfer of the property and records of the Preparatory Commission to the Authority;

(g) Provisional budget and financial organization;

(h) Organization of the Secretariat of the Authority.

IV. ELECTION OF THE ORGANS OF THE AUTHORITY

A. Election of the Council

14. The election of the Council proved to be the most difficult task for the Authority during its first year of operation. Several rounds of formal and informal negotiations were needed before it was possible to reach an agreement on the composition of the Council. At the second session of the Authority, in March 1996, following intensive and protracted consultations between the regional groups and special interest groups, agreement was finally reached on the composition of the Council. A complex system of rotation and duration of terms was also agreed upon and this is set out in document ISBA/A/L.8 and Corr.1. Upon the adoption by the Assembly of the proposed system of rotation, a number of statements were made concerning the composition of the Council, the representation of groups and future elections, and these are annexed to the statement of the President on the work of the Assembly during the first part of the second session of the Authority (ISBA/A/L.9). In accordance with

article 161, paragraph 3, of the Convention, the term of one half of the members of the Council of each of the five interest groups referred to in section 3, paragraph 15, of the annex to the Agreement shall be two years. The term of two years expires in 1998 and it will be necessary for the Assembly to hold an election, in accordance with the provisions of section 3, paragraph 10, of the annex to the Agreement, at the first session in 1998.

B. Election of the members of the Finance Committee

15. The next major task for the Assembly was to elect the members of the Finance Committee. Again, bearing in mind the need to give due consideration to equitable geographical distribution and the representation of special interest groups, this was not an easy task. The greater part of the resumed second session of the Assembly, in August 1996, was devoted to intensive consultations between the regional groups and the special interest groups aimed at reaching consensus as to the composition of the Finance Committee. By the end of the session, after protracted and difficult consultations within and among the regional groups, an agreement was reached on the first composition of the Finance Committee. This agreement, the terms of which are set out in document ISBA/C/L.3, was made without prejudice to the overall composition of the Finance Committee for future elections and in particular to the claims of the regional groups.

16. On the basis of this agreement, the following candidates were elected to the Finance Committee for a five-year term:

Ernesto Belo Rosa (Uruguay)
Craig John Daniell (South Africa)
Domenico da Empoli (Italy)
David Etuket (Uganda)
Jobst Holborn (Germany)
Lou Hong (China)
Tadanori Inomata (Japan)
Serguey Ivanov (Russian Federation)
Samia Ladgham (Tunisia)
Jean-Pierre Levy (France)
Isaac Klipstein Margulis (Mexico)
S. Rama Rao (India)
Coy Roache (Jamaica)
Michael C. Wood (United Kingdom of Great Britain and Northern Ireland)
M. Deborah Wynes (United States of America)

C. Election of the President of the Council

17. The Council commenced its work during the resumed second session of the Authority, in August 1996. The President of the Assembly convened the Council as President Pro Tem and undertook consultations on the election of a President. Mr. Lennox Ballah (Trinidad and Tobago) was elected the first President of the Council. The Council also formally adopted its rules of procedure (ISBA/C/12). Given the prolonged delay in the election of the Council, it was agreed that the first priority for it was to elect the members of the Legal and Technical Commission.

D. Election of the members of the Legal and Technical Commission

18. Considering that 22 nominations had been received for the Legal and Technical Commission, the Council agreed, having regard to the provisions of article 163, paragraph 2, of the Convention, to increase the number of seats on the Commission from 15 to 22. Accordingly, the Council elected the following 22 candidates as members of the Commission:

Hans Amann (Germany)
Samuel Sona Betah (Cameroon)
Arne Bjorlykke (Norway)
José de J. Conejo (Costa Rica)
Ivan F. Glumov (Russian Federation)
Robert Guehi (Côte d'Ivoire)
Waguihi Hanafi (Egypt)
Jung-Keuk Kang (Republic of Korea)
Ryszard Kotlinski (Poland)
Jean-Pierre Lenoble (France)
Yuwei Li (China)
Charles Lowell Morgan (United States of America)
Marcellin Mve-Ebang (Gabon)
Luis Giotto Preval Paez (Cuba)
H. P. Rajan (India)
Giovanni Rosa (Italy)
Toshio Sakasegawa (Japan)
Olexander A. Shchyptsov (Ukraine)
H. Shimutwikeni (Namibia)
Alfred Simpson (Fiji)
George P. Stewart (Bahamas)
Boris Winterhalter (Finland)

Regrettably, before he could take up office, Dr. Shimutwikeni died, and, in accordance with the decision of the Council, his position on the Commission was taken by Inge Zaamwani (Namibia) with effect from March 1997.

V. RELATIONS WITH THE UNITED NATIONS AND OTHER ORGANIZATIONS

A. Observer status with the General Assembly

19. Bearing in mind the particular status of the Authority as an autonomous international organization under the Convention, the Assembly, at its resumed second session in August 1996, requested the Secretary-General to seek on behalf of the Authority observer status at the United Nations in order to enable the Authority to participate in the deliberations of the General Assembly. On 4 November 1996, by General Assembly resolution 51/6, the Authority was granted observer status.

B. Relationship agreement with the United Nations

20. Also during the resumed second session of the Authority, the Council requested the Secretary-General to negotiate with the Secretary-General of the United Nations a relationship agreement between the Authority and the United Nations taking into account the draft of such an agreement prepared by the Preparatory Commission contained in document LOS/PCN/153, Vol. 5. Negotiations on such an agreement took place in January 1997. The agreement was signed by the Secretary-General of the United Nations and the Secretary-General of the International Seabed Authority on 14 March 1997 in New York. According to its terms, the agreement is to be applied provisionally by the United Nations and the Authority upon signature by the respective Secretaries-General and will enter into force on its approval by the General Assembly of the United Nations

and the Assembly of the Authority. The relationship agreement was approved by the Assembly of the Authority at its forty-fifth meeting, on 27 March 1997 (see ISBA/3/A/3). The General Assembly of the United Nations will consider the agreement at its fifty-second session.

21. The agreement, the text of which is contained in document ISBA/3/A/L.2, establishes a mechanism for close cooperation between the secretariats of the two organizations in order to ensure effective coordination of activities and to avoid unnecessary duplication of work. Such cooperative arrangements are to include cooperation regarding personnel arrangements. It also provides mechanisms for reciprocal representation at meetings, taking into account the status of the Authority as an observer at the United Nations. The agreement establishes mechanisms whereby the Authority and the United Nations will cooperate in exchanging data and in fulfilling their respective functions under the Convention. Most importantly, article 12 of the agreement provides that unless the General Assembly, after giving reasonable notice to the Authority, decides otherwise, the United Nations will continue to make available to the Authority, on a cost reimbursable basis, such facilities and services as may be required for the meetings of the Authority, including translation and interpretation services, documentation and conference services.

C. Relations with other organizations

22. Article 169 of the Convention requires the Secretary-General, with the approval of the Council, to make suitable arrangements for consultation and cooperation with international and non-governmental organizations. In addition, under article 162, paragraph 2 (f), one of the functions of the Council is to enter into agreements with the United Nations and other international organizations on behalf of the Authority. In this regard, it will be recalled that the Convention contains a number of provisions, outside Part XI, that affect the Authority and require cooperation between competent international organizations as well as between States. Such provisions include articles 198 (concerning notification of imminent danger of damage by pollution to marine environment), 209 (prevention, reduction and control of pollution of the marine environment resulting from activities in the Area), 273 and 274 (transfer of skills and marine technology with regard to activities in the Area) and 278 (cooperation between competent international organizations to ensure effective discharge of responsibilities). These provisions create substantive responsibilities. It is incumbent upon the Secretary-General to discharge these responsibilities on behalf of the Authority and it is therefore intended to pursue the development of such cooperative arrangements where appropriate and necessary. It is, of course, an essential element of the Authority's work programme to monitor developments with respect to marine scientific research in the Area, marine pollution and the protection and preservation of the marine environment.

D. Relationship with the International Tribunal for the Law of the Sea

23. Another important matter to be addressed is the question of the relationship between the Authority and the International Tribunal for the Law of the Sea. While the two institutions are separate, and the independence of the Tribunal must be recognized, it will be recalled that the Preparatory Commission made a number of recommendations concerning the establishment of a relationship agreement. In particular, the report of Special Commission 4 (LOS/PCN/SCN.4/WP.16/Add.5) sets out principles governing a relationship agreement between the two institutions in order to ensure effective cooperation, consultation and exchange of information. Following upon the work done by the Preparatory Commission the Tribunal has made a request to the Authority for such an agreement.

VI. RELATIONS WITH THE HOST COUNTRY

24. One of the urgent matters addressed by the Secretary-General upon taking up his duties was the matter of the headquarters agreement between the Government of Jamaica and the Authority. Such an agreement would cover not only the privileges and immunities to be accorded by the Government of Jamaica to representatives of member States and members of the Secretariat, premises and archives of the Authority, but also the question of the location of the headquarters of the Authority. Under the arrangements in force between the Government of Jamaica and the Special Representative of the Secretary-General for the Law of the Sea, the Kingston Office for the Law of the Sea had been occupying premises in central Kingston adjacent to the Jamaica Conference Centre. Following the establishment of the Authority and pending the identification of suitable premises for, the Authority is continuing to use as its temporary office the premises formerly occupied by the Kingston Office for the Law of the Sea. No formal agreement is in place regarding the occupation of these premises by the Authority, although "rent" in the form of maintenance services is paid on a monthly basis to the owner of the building, the Urban Development Corporation.

25. At the resumed second session of the Authority, held at Kingston from 5 to 16 August 1996, the Council requested the Secretary-General to negotiate with the Government of Jamaica an agreement regarding the headquarters of the Authority, taking into account the draft of such an agreement prepared by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea as well as additional clarifications concerning several provisions of the draft agreement contained in the provisional final report of the Preparatory Commission (LOS/PCN/152, Vol. I). In January and February 1997, in accordance with the Council's directive, negotiations took place between officials of the Authority and officials of the Government of Jamaica. The outcome of these negotiations was a further revised agreement that was submitted to the Council for consideration during the first part of the third session of the Authority in March 1997 (ISBA/3/C/L.3). Unfortunately, it was not possible to resolve all the remaining areas of difficulty with respect to the draft agreement. In particular,

article 2 of the draft agreement, relating to the location of the headquarters of the Authority, remains pending.

26. The process of establishing the Authority requires consideration to be given to proper housing of the Authority. In this regard there are a number of essential elements that need to be considered. The premises of the Authority should be in an area that is conducive to the work of the Secretariat. The premises should not only be secure and located in a safe area, but also accessible to the representatives of member States as well as to the staff at all times. It follows that the Authority should not be located in an environment that discourages staff from fulfilling their obligations to the Authority for reasons of security or which impedes the Secretariat in fulfilling its duties to the member States. The present situation is unsatisfactory for a number of reasons, not least the security situation. This has been confirmed by a recent review of security by the United Nations Security Coordinator. The review has confirmed that the essential elements of security include a stand-alone building, at a distance from the roadside, in a safe area, preferably in its own grounds, to which the Authority has exclusive access and which can be properly fenced and secured.

VII. PRIVILEGES AND IMMUNITIES

27. The draft protocol on the privileges and immunities of the International Seabed Authority submitted by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (LOS/PCN/WP.49/Rev.2) was considered by the Assembly at the resumed second session of the Authority, held from 5 to 16 August 1996. A working group was established to undertake a review of the draft document. On the basis of the report submitted by the working group, the Assembly decided to request the Secretariat to undertake further work on the draft protocol and to present the results of such work at an early stage during the next session of the Authority.

28. In accordance with the directive of the Assembly, the Secretariat presented a revised version of the draft protocol at the first part of the third session of the Authority (ISBA/3/A/WP.1). Following informal consultations with interested delegations, a further revised version of the draft protocol was issued on 24 March 1997 (ISBA/3/A/WP.1/Add.1). The revised draft protocol deals with the immunities and privileges of the Authority in relation to those matters which are not already covered in the Convention and is based substantially on articles I, II, IV, V, VI and VII of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 ("the General Convention").

VIII. PERMANENT REPRESENTATIVES TO THE AUTHORITY

29. As at 10 July 1997, the Ambassadors of Argentina, Brazil, Costa Rica, Cuba, Italy, Germany, the Netherlands and the Republic of Korea had presented their credentials to the Secretary-General as Permanent Representatives to the Authority. The fact that the Secretariat is now responsible for protocol matters affecting Permanent Representatives and their missions makes it all the

more important to conclude a relationship agreement with the host Government as quickly as possible.

IX. ORGANIZATION OF THE SECRETARIAT

A. Transition from the Kingston Office for the Law of the Sea

30. Immediately upon assuming his duties, the Secretary-General began to make the necessary arrangements for an orderly transition of staff from the former Kingston Office for the Law of the Sea to the International Seabed Authority and to assemble a core team of staff members. In this regard, it will be recalled that the Kingston Office for the Law of the Sea, which was formerly responsible for providing secretariat services to the Preparatory Commission, was abolished with effect from 30 September 1995. It was agreed, however, that the Authority would continue to use the facilities and staff of the Kingston Office as the interim secretariat of the Authority until such time as the Secretary-General took up his duties and was able to assume administrative responsibility for the staff. Although a number of administrative and technical matters remained to be dealt with, the transition from the Kingston Office was effectively completed by the end of May 1996 and, by agreement with the Legal Counsel of the United Nations, whose Office was also responsible for the operations of the Kingston Office for the Law of the Sea, the Secretary-General assumed full administrative responsibility for the Authority with effect from 1 June 1996.

B. Recruitment of core staff

31. Immediately after taking up office, the Secretary-General established a small core Secretariat, which assisted him in reviewing the future staffing requirements for the Secretariat and in preparing for the meetings of the Authority in 1996. Following the approval of the first budget of the Authority, the Secretary-General then commenced the recruitment process for both General Service and Professional staff. In accordance with the administrative practices of the United Nations, the Secretary-General of the Authority established an appointments and promotion board to make recommendations concerning the appointment, promotion and review of the contractual status of all staff of the Authority. Recruitment of General Service staff, up to the numbers provided for in the 1997 budget, was completed by April 1997. Recruitment of Professional staff is ongoing and, in accordance with established practice, was opened to international competition in March 1997.

32. Consistent with the principle of cost-effectiveness, the Secretariat that is being established aims to be efficient, technically competent and appropriate to the needs of the Authority as they evolve. The core functions of the various divisions of the Secretariat are set out in the annex. At present the Secretariat is organized into four main functional areas:

(a) Office of the Secretary-General;

(b) Office of Administration and Management;

(c) Office of Legal Affairs;

(d) Office of Resources and Environmental Monitoring.

33. A small information technology unit within the Office of Resources and Environmental Monitoring provides support for the Authority's databases and computer systems. In this regard, the Secretary-General undertook, with the assistance of a consultant, a thorough review of the information technology requirements of the Authority. Following the review, the necessary hardware and software was acquired and installed to provide the Authority with a computer network, together with electronic mail facilities and access to the Internet.

C. Budget

34. In accordance with section 1, paragraph 14, of the annex to the Agreement, until the end of the year following the year during which the Agreement enters into force, the administrative expenses of the Authority shall be met through the budget of the United Nations. Thereafter, the administrative expenses of the Authority shall be met by the assessed contributions of its members, including any members on a provisional basis, until the Authority has sufficient funds from other sources to meet those expenses. As noted above, the Agreement entered into force on 28 July 1996. The administrative expenses of the Authority for 1997 were met from the regular budget of the United Nations.

35. It will be recalled that, in the absence of a Secretary-General, it was not possible for the Authority to prepare a detailed budget submission for 1996. Accordingly, as an interim measure, it was agreed that the Secretary-General of the United Nations, on behalf of the Authority, should submit to the General Assembly at its fiftieth session a draft budget covering the initial administrative expenses of the Authority for 1996. On the basis of the draft budget submitted by the Secretary-General of the United Nations, the amount of $2,627,100 was authorized by the General Assembly for the Authority for 1996. This sum was made up of $1,308,200 for administrative costs and $1,318,900 for conference services.

36. Following the election of the Secretary-General, a draft budget for 1997 was submitted to the resumed second session of the Authority, in August 1996. The draft budget was considered by the Finance Committee, which recommended certain amendments and submitted reports to the Council and Assembly (ISBA/A/12 and ISBA/C/7). Subsequently, on the basis of the recommendations of the Finance Committee and the Council, the Assembly adopted a revised budget for 1997 in the amount of $4,150,500 ($2,750,500 for administrative costs and $1.4 million for conference services) and endorsed the evolutionary approach to the establishment of the Secretariat. The revised budget was subsequently approved by the General Assembly of the United Nations in its resolution 51/221 of 18 December 1996 and accommodated within the United Nations budget.

37. The proposed budget for 1998 (ISBA/3/A/5 and ISBA/3/C/6) indicates a modest increase in the administrative expenditures of the Authority in keeping with the evolutionary approach to the establishment of the Secretariat approved by the Assembly in 1996. It includes certain expenditures that were deferred in 1997

in order to reduce costs for the United Nations, but that were anticipated for inclusion in the 1998 budget. It should be noted that 1998 will be the first year in which the administrative expenditures of the Authority are to be met through the assessed contributions of member States and that, as at 1 January 1998, the Authority will not have access to any funds other than contributions from member States.

D. Administrative matters

38. In establishing an international organization, there are a number of administrative matters that need to be dealt with. These include establishing systems of financial management and control mechanisms, establishment of a payroll system for salaries and related allowances and preparation of financial and staff regulations and rules and other internal administrative policies and procedures. As is the practice in the United Nations, the Secretary-General has also established a committee on contracts, to render written advice on all contracts to him, and an ad hoc property survey board. In relation to the staff of the Secretariat, two important matters that required attention were the implementation of a proper system of health insurance and the establishment of a pension fund. With respect to the latter, the Assembly decided at its resumed second session, in August 1996, that it would be in the best interest of the Authority to become a member of the United Nations Joint Staff Pension Fund and requested the Secretary-General to take the necessary steps to apply for membership in the Fund (ISBA/A/15). In accordance with the Assembly's request, the necessary steps have been taken to apply for membership of the Fund and the matter was considered by the Board of the Fund in July 1997. The Board has recommended admission of the Authority to the Fund to the General Assembly. If the latter approves the recommendation, the Authority would become a member of the Fund with effect from 1 January 1998. In the meantime, interim arrangements have been made to ensure that adequate insurance cover for death and disability is available to the staff not in the pension scheme, and arrangements have been made with the Fund secretariat for retroactive membership of the Fund for staff joining the Secretariat before 1 January 1998. Following the approval of the Authority's membership of the Fund by the General Assembly, the Secretary-General will execute two agreements to give effect to membership of the Fund: a relationship agreement between the Authority and the Fund and an agreement that the Authority accepts the Regulations, Rules and Pension Adjustment System of the United Nations Joint Staff Pension Fund and also the jurisdiction of the United Nations Administrative Tribunal in relation to pension matters.

E. Financial regulations

39. Pending the adoption of its own regulations consistent with the financial regulations of the United Nations, the Authority applies, mutatis mutandis, the Financial Regulations of the United Nations. Draft financial regulations are being considered by the Finance Committee and it is expected that these would be completed by the end of 1998.

F. Staff regulations

40. Work has commenced on the preparation of staff regulations and rules and these will be submitted to the appropriate organs of the Authority in due course. In the meantime, the Authority is applying, mutatis mutandis, the Staff Regulations and Rules of the United Nations, supplemented as necessary by administrative instructions issued by the Secretary-General.

X. SUBSTANTIVE WORK OF THE AUTHORITY

A. Functions of the Authority

41. The substantive functions of the Authority are derived from the provisions of the Convention and the Agreement. In 1996, the Secretary-General presented a report to the Authority that described in detail the substantive function of the Authority and reviewed the status of the exploration work carried out by the registered pioneer investors (ISBA/A/10).

42. Under section 1, paragraph 5, of the annex to the Agreement, the immediate priorities for the Authority are:

(a) Processing of applications for approval of plans of work for exploration in accordance with Part XI and the Agreement;

(b) Implementation of decisions of the Preparatory Commission relating to the registered pioneer investors and their certifying States, including their rights and obligations, in accordance with article 308, paragraph 5, of the Convention and resolution II, paragraph 13;

(c) Monitoring of compliance with plans of work for exploration approved in the form of contracts;

(d) Monitoring and review of trends and developments relating to deep seabed mining activities, including regular analysis of world metal market conditions and metal prices, trends and prospects;

(e) Study of the potential impact of mineral production from the Area on the economies of developing land-based producers of those minerals that are likely to be most seriously affected, with a view to minimizing their difficulties and assisting them in their economic adjustment, taking into account the work done in this regard by the Preparatory Commission;

(f) Adoption of rules, regulations and procedures necessary for the conduct of activities in the Area as they progress. Notwithstanding the provisions of annex III, article 17, paragraphs 2 (b) and (c), of the Convention, such rules, regulations and procedures shall take into account the terms of the Agreement, the prolonged delay in commercial deep seabed mining and the likely pace of activities in the Area;

(g) Adoption of rules, regulations and procedures incorporating applicable standards for the protection and preservation of the marine environment;

(h) Promotion and encouragement of the conduct of marine scientific research with respect to activities in the Area and the collection and dissemination of the results of such research and analysis, when available, with particular emphasis on research related to the environmental impact of activities in the Area;

(i) Acquisition of scientific knowledge and monitoring of the development of marine technology relevant to activities in the Area, in particular technology relating to the protection and preservation of the marine environment;

(j) Assessment of available data relating to prospecting and exploration;

(k) Timely elaboration of rules, regulations and procedures for exploitation, including those relating to the protection and preservation of the marine environment.

B. Formulation of the rules, regulations and procedures for prospecting and exploration for polymetallic nodules in the Area

43. The Legal and Technical Commission met for the first time during the March session. Mr. Jean-Pierre Lenoble (France) was elected Chairman of the Commission. The Commission reviewed draft regulations on prospecting and exploration for polymetallic nodules in the Area ("the mining code") prepared by the Secretariat on the basis of the work carried out by the Preparatory Commission. As a result of its deliberations, the Commission was able to prepare a revised text of the mining code, which was circulated as an informal draft in English only at the end of the March session. It was noted, however, that the Commission intended to give further consideration to the revised text before a final text could be submitted to the Council. The Commission also requested the Secretariat to prepare a model contract for exploration based on the provisions of the draft mining code. Once a final text has been agreed by the Commission, the code, together with the recommendations of the Commission, will be submitted to the Council for consideration and adoption and provisional application pending approval by the Assembly in accordance with article 162, paragraph 2 (o), of the Convention.

C. Status of registered pioneer investors

44. By the final session of the Preparatory Commission, seven pioneer investors had been registered by the General Committee. These were India on 17 August 1987, the French Research Institute for Ocean Utilization/French Association for the Study of and Research into Nodules (IFREMER/AFERNOD) (France), the Deep Ocean Resources Development Company (Japan) and Yuzhmorgeologiya [Union of Soviet Socialist Republics (now the Russian Federation)] all on 17 December 1987, the China Ocean Mineral Resources Research and Development Association (China) on 5 March 1991, Interoceanmetal Joint Organization (Bulgaria, Cuba, the Czech and Slovak Federal Republic (now the Czech Republic and Slovakia), Poland and the Union of Soviet Socialist Republics

(now the Russian Federation)) on 21 August 1991 and the Republic of Korea on 2 August 1994. The reports of the Preparatory Committee (LOS/PCN/153, Vols. I and II) also summarized the status of fulfilment of obligations by each of the registered pioneer investors, as set out in detail in the reports of the Preparatory Commission and in the certificates of compliance issued by the Chairman of the Preparatory Commission to all the registered pioneer investors, with the exception of the Republic of Korea.

45. In accordance with section 1, paragraph 6 (a) (ii), of the annex to the Agreement, a registered pioneer investor may request approval of a plan of work for exploration within 36 months of the entry into force of the Convention, that is, by 16 November 1997. The Convention and the Agreement require that such plans of work be approved in the form of a contract. One of the key priorities for the Authority, therefore, is to work with the registered pioneer investors to ensure that contracts can be issued as soon as possible once the request is received by the due date.

D. Evaluation of polymetallic nodule resource data for the Area

46. The deep seabed area is vast and to date only a very small part of it has been explored and charted. All States parties to the Convention have an interest in the conservation and rational management of the resources of the Area. This interest is best served by the Authority having the means to obtain data and information that can be analysed so as to estimate the magnitude of the potentially recoverable polymetallic nodule resources as well as an understanding of the environmental impacts likely to be caused by deep seabed mining. For this reason the Authority will need adequate resources to make an effective and sustained effort to collect, manage and distribute information on the Area. In addition, in accordance with article 143, paragraph 2, of the Convention and section 1 (g), paragraph 5 (h), of the annex to the Agreement, the Authority is to promote and encourage marine scientific research with particular emphasis on research related to the environmental impact of activities in the Area.

47. For the foreseeable future, the Secretariat of the Authority is also to perform the functions of the Enterprise. The reserved area for the Authority, in the central region of the north-east Pacific Ocean, is the only mine site for which the Authority already has a comprehensive plan for exploration prepared by the Group of Experts for the Preparatory Commission (LOS/PCN/BUR.R.10/Add.1). It is the area for which the Authority has the most resource assessment data.

48. Prospecting and pioneer activities have provided basic information on polymetallic nodules that has made it possible to indicate the resource potential in future mining areas. In addition to polymetallic nodule resources, other known mineral resources drawing considerable interest are cobalt-rich manganese oxides, polymetallic sulphide deposits along ocean-floor spreading centres and red clay deposits. Three ocean sectors in the Area are considered of primary interest:

(a) The Clarion-Clipperton area between the west coast of the mainland United States and Hawaii, approximately 2.5 million square kilometres in size;

(b) The south-western Pacific basin, approximately 1 million square kilometres;

(c) The central Indian Ocean basin, approximately 500,000 square kilometres in size.

49. These three sectors account for about 2 per cent of the Area. Analyses of stations in the Scripps Institution of Oceanography's sediment data bank reveal that several other areas also appear to contain sufficient metal-rich nodules to justify exploration for sites suitable for first-generation mining.[1] These areas include the Peru basin (between 8° and 5° S and between 90° and 92° W), the South Atlantic Ocean (between 23° and 45° S and between 5° W and 30° E) and the central south equatorial Indian Ocean. Given the interest shown in subsea mineral resources other than polymetallic nodules and the considered data and information already available, the Authority should keep itself informed of the developments.

E. Resource assessment of the areas reserved for the Authority

50. As noted, the Authority is in possession of various sets of data submitted by registered pioneer investors in respect of the areas reserved for the Authority. These areas are located in the Clarion-Clipperton fracture zone between 7° 15' and 17° 15' N and between 120° and 156° 40' W. The Secretariat, with the assistance of a consultant, has reviewed the status of all information and data in the possession of the Authority relating to these areas. A preliminary assessment has been made of the location and abundance of polymetallic nodules in the reserved areas and possible mineable areas have been identified for future exploration work. Recommendations have also been made concerning the types and formats of data required for future resource assessment work.

F. Development of POLYDAT

51. Data on the results of prospecting and exploration will be submitted to the Authority in accordance with the rules, regulations and procedures of the Authority. Some data has already been submitted to the Authority by the registered pioneer investors in accordance with the requirements of resolution II of the Third United Nations Conference on the Law of the Sea. The Authority is responsible for ensuring the security and integrity of data submitted to it by the registered pioneer investors and by future contractors. One of the priorities of the Authority, therefore, has been to establish a secure database (known as POLYDAT), linked to a geographical information system, which can be used to store and retrieve all data submitted to the Authority as well as to assist in resource assessment work in relation to the areas reserved for the Authority.

52. The information contained in the database comprises the coordinates of areas allocated to registered pioneer investors and reserved for the Authority, details of the methodology used for data acquisition and mining data relating to the nature and abundance of resources. The geographical information system

capacity of the database will make it possible to produce listings, graphs and maps, including abundance maps of polymetallic nodules.

53. In order to progress work on the development of POLYDAT, the Secretary-General undertook, with the assistance of a consultant, a thorough review of the operational requirements of the database. Based on the findings of the review, the necessary hardware and software has been acquired to establish POLYDAT, and work on the development of the database system is proceeding under the auspices of the Office of Resources and Environmental Monitoring.

G. Environmental baselines

54. One of the key responsibilities of the Authority is to ensure that the natural environment in the Area is protected from serious harm that may be caused by activities in the Area. To achieve this, it will be necessary for the Authority, in consultation with contractors, to establish environmental baselines and to identify the types of environmental data required from contractors to assess likely impacts on the marine environment. At this early stage of development, mining technology is still very much undefined. Also, the types of activities anticipated during exploration consist primarily of non-invasive survey work and are not expected to be of serious concern in terms of environmental impact. A significant body of information on these activities and their effects has already been acquired during the past 25 years. Small-scale mining equipment tests and mining simulation experiments have been carried out through collaborations of industrial, government and academic workers, as well as baseline data collection by industrial explorers and government-funded researchers. With this in mind, the Authority is in the process of synthesizing all available information on the environmental impacts of deep seabed mining in order to assist the Legal and Technical Commission to formulate guidelines for the assessment of environmental impacts of activities in the Area.

XI. PUBLIC INFORMATION

55. The Authority has given publicity to its work by means of press releases. The press releases, together with other publicly available documentation and basic information about the Authority, may also be accessed through the Authority's Web site on the Internet (www@isa.org.jm). In addition, the Authority has issued a handbook containing details of the membership of the Assembly and the Council, the names and addresses of Permanent Representatives and the names of the members of the Legal and Technical Commission and the Finance Committee.

XII. FUTURE WORK

56. The major tasks to be undertaken in 1998 are the following:

(a) The continued review of the rules, regulations and procedures for prospecting and exploration for polymetallic nodules in the Area;

(b) Adoption of the staff regulations;

(c) Adoption of the financial regulations;

(d) Consideration of agreements for cooperation with the International Tribunal for the Law of the Sea and other international organizations or bodies;

(e) Consideration of the rules of procedure for the Finance Committee and the Legal and Technical Commission;

(f) Processing of requests for approval of plans of work for exploration;

(g) Consideration of periodic reports submitted by contractors in accordance with the terms of contracts for exploration;

(h) Establishment of a library;

(i) Publicizing the work of the Authority, including the issue of the texts of the principal documents of the Authority and refinement of the Authority's Web site in the Internet.

57. During 1998, it is also proposed to convene two of the three expert group meetings that were deferred in 1997. These workshops will be convened with the objective of:

(a) Assisting the Authority in the development of guidelines for the control of environmental impacts from seabed mining (acquisition of baseline data, monitoring of the activities of contractors in the Area and reporting on these efforts);

(b) Assisting the Authority to determine the progress made in the development of deep seabed mining technology and identifying as appropriate the most efficient and cost-effective system for this purpose.

XIII. CONCLUSION

58. The Authority has largely completed the organizational phase of its work. The various organs of the Authority, including the Council, the Legal and Technical Commission and the Finance Committee have been elected and have commenced their substantive work. The rules of procedure for the Assembly and the Council have been adopted. A small core Secretariat has been established at the temporary headquarters of the Authority. The Secretariat has taken the necessary steps to organize its operations in a manner consistent with the principle of cost-effectiveness.

59. The Authority has also embarked upon its substantive work. The Legal and Technical Commission has commenced consideration of the rules, regulations and procedures for prospecting and exploration for polymetallic nodules in the Area. The Secretariat has taken the necessary steps to establish the database of resources in the Area (POLYDAT) and is in the process of formulating draft

guidelines for the assessment of environmental impacts of activities in the Area.

Notes

[1] V. E. McKelvey, "Subsea mineral resources" in US Geological Survey Bulletin, No. 1689A, 1986.

ANNEX

FUNCTIONS OF THE SECRETARIAT

A. Office of the Secretary-General

1. The functions of the Office of the Secretary-General are:

(a) To assist the Secretary-General in the implementation of general policy and executive direction of the Secretariat;

(b) To coordinate the work of the Secretariat;

(c) To be responsible for the external relations of the Authority;

(d) To be responsible for protocol matters, liaison and representation, organization of official ceremonies and similar functions;

(e) To maintain up-to-date lists of Permanent Representatives and other persons accredited to the Authority, to issue official identification passes and to notify the host Government of arrivals and departures of persons accredited to the Authority;

(f) To coordinate with the office responsible for conference services of the United Nations the conference-servicing requirements of the Authority;

(g) To ensure the timely preparation, translation, printing and distribution of official documentation.

B. Office of Legal Affairs

2. The work of the Office of Legal Affairs falls into four main categories:

(a) Provision of secretariat services to the organs of the Authority;

(b) Provision of legal advice relating to the substantive work of the Authority;

(c) Provision of general legal services to the Authority;

(d) Library and publication services.

C. Office of Resources and Environmental Monitoring

3. The work of the Office of Resources and Environmental Monitoring falls into the following categories:

(a) Provision of secretariat services to the organs of the Authority;

(b) Provision of economic, technical and scientific inputs in the preparation of and monitoring compliance with the rules, regulations and procedures for the conduct of activities in the Area;

(c) Implementation of the decisions of the Preparatory Commission relating to the registered pioneer investors and their certifying States;

(d) Development and maintenance of the information technology facilities of the Authority (local area network, to support the basic data-processing needs of the Authority and to provide for the central data repository);

(e) Development and maintenance of a central data repository of resources of the international seabed area;

(f) Supporting the environmental monitoring programme of the Authority;

(g) Promotion and encouragement of the conduct of marine scientific research with respect to activities in the Area;

(h) Monitoring trends and developments relating to deep seabed mining activities, including world metal market conditions;

(i) Assessment of the available data relating to prospecting and exploration for polymetallic nodules of the Area, including areas reserved for the Authority.

D. Office of Administration and Management

4. The Office of Administration and Management provides general administrative and management support to the Authority:

(a) Provision of secretariat services to the organs of the Authority;

(b) Administration of the financial management and control mechanisms;

(c) Administration of the staff regulations and rules and other internal administrative policies and procedures.